In the Supreme Court of the United States

OCTOBER TERM, 1968

No. 271

CASSIUS MARSELLUS CLAY, JR., ALSO KNOWN AS MUHAMMAD ALI, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN RESPONSE TO PETITIONER'S SECOND MOTION TO AMEND PETITION FOR CERTIORARI

Petitioner seeks to amend his petition for a writ of certiorari in order to comprehend a question relating to this Court's recent decision in *Presbyterian Church* v. *Hull Church,* No. 71, this Term, decided January 27, 1969, which he asserts is presented on the facts of the instant case. He appears to suggest that that decision bars any inquiry into the tenets or doctrine of a particular religious sect for the purpose of determining a Selective Service registrant's eligibility for a ministerial exemption under 50 U.S.C. App.

456(g), or conscientious objector status under 50 U.S.C. App. 456(j). It is unnecessary to reach that issue on the facts here presented.

As pointed out in our brief in opposition (pp. 6–7), petitioner's ministerial exemption claim was properly rejected since the record amply showed that his vocation was that of a professional boxer, and not a minister. Thus, in rejecting that claim there was no necessity to inquire into the tenets of the Black Muslim sect of which petitioner is a member, or to determine whether it qualifies as a *bona fide* "religion". Similarly, as to his conscientious objector claim, petitioner himself stated that he was not opposed to "participation in war in any form"—the statutory standard—but only to participation in certain wars (see Br. in Opp., pp. 8–9). Accordingly, an inquiry into the teachings of the Black Muslims was not an essential predicate to the denial of his claim to conscientious objector status either. There is therefore no occasion here to determine what relevance, if any, the holding in *Presbyterian Church* might have in the Selective Service context.

For the reasons stated, petitioner's motion should be denied.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

FEBRUARY 1969.

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